

REVISED

(Deletion—11; Addition 13a)

THE BOARD OF COUNTY COMMISSIONERS DURHAM, NORTH CAROLINA

Monday, April 28, 2008

County Commissioners' Chambers
200 East Main Street, Durham, North Carolina

AGENDA

"Public Charge"

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

4:00 P.M.

Joint Meeting with the Board of County Commissioners
and Durham Public Schools Board of Education

7:00 P.M. Regular Session

1. **Opening of Regular Session**—Pledge of Allegiance 5 min.
2. **Agenda Adjustments** 5 min.
3. **Announcements** 5 min.
4. **Minutes** 5 min.
 - a. April 7, 2008 Worksession
 - b. April 14, 2008 Regular Session
5. **Foster Care Month Proclamation** 5 min.

All children deserve a safe, happy life — including the 513,000 American children and youth in foster care. Young people in foster care especially need nurturing adults on their side because their own families are in crisis and unable to care for them. Each

May, we salute the compassionate [people who make a difference](#) by serving as foster parents, relative caregivers, mentors, advocates, social workers, and volunteers. Thanks to these unsung heroes, many formerly abused or neglected children and teens will either safely reunite with their parents, be cared for by relatives, or be adopted by loving families.

In Durham County on April 1, 2008, there were 239 children and youth in foster care. We have 100 foster homes licensed to serve those children. Foster Care Month is an opportunity to educate the community about the need for more foster parents and to celebrate the commitment foster parents have to improve the lives of vulnerable children and youth.

Two major events are planned in May to celebrate: The Foster Parent's Banquet on May 8 and the Walk for the Children on Saturday, May 17 at 9:00 AM. The Board of Commissioners is invited to attend both events.

Resource Person(s): Chuck Harris, Assistant Director for Child Welfare and Adult Services, and Sammy Haithcock, Director

County Manager's Recommendation: Recommend approval of proclamation declaring Social Work Month in Durham County and to raise community awareness of the many ways DSS social workers build on strengths to invest in our community's human capital.

6. **Proclamation of May as Mental Health Month in Durham County**

5 min.

The Board is requested to adopt the Proclamation declaring May 2008 as Mental Health Month in Durham.

Resource Person(s): Ellen, Holliman, Area Director, The Durham Center

County Manager's Recommendation: The Manager requests that the Board of County Commissioners adopt this proclamation.

7. **Older Americans Month Proclamation**

5 min.

When Older Americans Month was established in 1963, only 17 million living Americans had reached their 65th birthdays. About a third of older Americans lived in poverty, and there were few programs to meet their needs. However, interest in older Americans and their concerns was growing. In April of 1963, President John F. Kennedy's meeting with the National Council of Senior Citizens served as a prelude to designating May as "Senior Citizens Month." Thanks to President Jimmy Carter's 1980 designation, what was once called Senior Citizens Month, is now called "Older Americans Month," and has become a tradition.

Today, one in six Americans, or 44 million people, is age 60 years or older. While most older Americans are active members of their families and communities, others are at risk

of losing their independence. These include four million Americans age 85 years and older, those who are living alone without a caregiver, those living in nursing homes or other institutional settings, members of minority groups, older persons with physical or mental impairments, older persons residing in rural areas, low income older persons, and those who are abused, neglected, or exploited.

Older Americans Month is a time to acknowledge the contributions of past and current older persons to our country, in particular those who defended our country. Every President since JFK has issued a formal proclamation during or before the month of May asking that the entire nation pay tribute in some way to older persons in their communities. Older Americans Month is celebrated across the country through ceremonies, events, fairs, and other such activities.

The Department of Social Services, Council for Senior Citizens, and the Senior Adult Results Based Accountability Committee are requesting that the Board of Commissioners declare May as Older Americans Month in Durham County and help to promote this observance to Durham residents.

DSS will host the annual *Celebration of Life* luncheon for DSS Adult Services clients ages 70+ at the Student Union at NC Central University on May 8.

Resource Person(s): Sammy Haithcock, DSS Director; Gail Souare, Executive Director, Council for Senior Citizens; and Gayle Harris, Chairman, Senior RBA Committee

County Manager's Recommendation: Recommend approval of proclamation declaring Older Americans Month in Durham County and to raise community awareness of the many ways to support our older residents to lead lives of dignity and independence.

8. **Introduction of the Durham City-County Sustainability Manager**

5 min.

Tobin Freid began work as the Durham City-County Sustainability Manager on April 7, 2008. Glen Whisler, County Engineer, will introduce Ms. Freid to the Board of County Commissioners.

Resource Person(s): Glen Whisler, County Engineer

County Manager's Recommendation: The Manager recommends that the Board welcome Ms. Freid and express its support for her work in implementing the Greenhouse Gas Reduction Plan and other sustainability initiatives.

9. **Consent Agenda**

20 min.

- a. Receive the 2007 Annual Report of the Development Review Board;
- b. Budget Ordinance Amendment No. 08BCC000069—Social Services—Recognize Additional Smart Start Subsidy Revenue with a total increase of \$49,088;

- c. Budget Ordinance Amendment No. 08BCC000070—Public Health—Recognize Revenue in the Amount of \$19,241 from the Department of Health and Human Services to supplement technological improvements for the Environmental Health Division;
- d. Approve the FY 2008-2009 Annual Action Plan for the use of CDBG, HOME, ADDI, and ESG funds for submission to the U.S. Department of Housing and Urban Development;
- e. Ambulance Service Franchise Renewal (approve the three-year renewal request for Bahama, Bethesda, Parkwood, and Redwood Volunteer Fire Departments, and Duke LifeFlight; this is the second of two required approvals);
- f. Property Tax Releases and Refunds for Fiscal Year 2007-2008 (accept the property tax release and refund report for March 2008 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- g. Resolution to Encourage North Carolina State University to Maintain Public Recreational Use of NCSU Hill Forest (approve the resolution, a copy of which will be forwarded to the Department of Forestry at North Carolina State University);
- h. Civic Center Lease—Office Space Relocation for S&H Contracting Services Inc. (approve and allow staff to make changes to the lease provided such changes do not materially affect the intent and purpose of the lease); and
- i. Vehicles and Equipment Replacement Loan (accept the Sun Trust bid Option 1 for 2.675% with a 103% of par pre-payment penalty).

10. **Public Hearing—Zoning Map Change—Angier Haven (Z05-45)**

10 min.

To approve a request for a zoning map change for a 33.5 acre site located on the east side of Angier Avenue, west of Ruritan Road and south of Glover Road with the effective date of the amendment delayed until the ordinance is approved by both Governing Bodies.

Request: RS-20 and CG; F/J-B (partial) to RS-M(D); F/J-B (partial)

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the *Comprehensive Plan* and is reasonable and in the public interest in light of information presented in the public hearing and in the agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Commissioners adopt as support for their actions on the proposed zoning map change the determination that, notwithstanding its consistency with the *Comprehensive Plan*, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the agenda materials.

Staff Recommendation: Staff recommends approval, based on consistency with the Comprehensive Plan and considering the information contained in the report.

Planning Commission Recommendation and Vote: Approval, 8-3 on March 11, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director, and Gail Sherron, Senior Planner

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed zoning map change and approve it, if appropriate, based on the comments received.

11. ~~**Public Hearing – Street Closing – T.W. Alexander Drive (SC07-10)**~~

~~10 min.~~

~~To conduct a public hearing on the permanent closing of a 236.85 linear foot portion of the T.W. Alexander Drive public right of way. The right of way is located on the north side of T.W. Alexander Drive, east of Miami Boulevard and west of Page Road.~~

~~Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director, and Phyllis T. Melton, Senior Planner~~

~~County Manager's Recommendation: The Manager recommends that the Board adopt an order to close permanently the proposed T.W. Alexander public right of way.~~

12. Left Blank Intentionally

13. **County of Durham v. Lynne Graham**

20 min.

To consider whether to adopt Administrative Law Judge Beecher R. Gray's Order entering judgment in favor of Lynn Graham. Judge Gray ruled that "the matter has been fully resolved by prior litigation and the Doctrine of Res Judicata should apply." This request for Board action is made pursuant to N.C.G.S. section 150B-36 entitled Final decision, which provides in pertinent part within subsection (d):

For any decision by the administrative law judge granting judgment on the pleadings or summary judgment that disposes of all issues in the contested case, the agency shall make a final decision. If the agency does not adopt the administrative law judge's decision, it shall set forth the basis for failing to adopt the decision and shall remand the case to the administrative law judge for hearing. The party aggrieved by the agency's decision shall be entitled to immediate judicial review of the decision under Article 4 of this Chapter.

Resource Person(s): Glen Whisler, County Engineer; Marie Inserra, Assistant County Attorney.

County Manager's Recommendation: It is the recommendation not to adopt Judge Gray's decision as the decision does not address the time in violation that was not considered by the Court in the first action, and the decision in the first action did not constitute a final binding judgment under the doctrine of res judicata.

13a. Acquisition of Lakewood YMCA Property

The Board is requested to consider and approve the deal points related to the acquisition and renovation of the Lakewood YMCA property located at 2119 Chapel Hill Road, owned by the Young Men's Christian Association of the Triangle Area, Inc. (YMCA) and authorize the Manager to enter into a Contract to Purchase the property.

In May 2007, YMCA officials told their membership they were considering closing the Lakewood facility. Since then, members and residents in the surrounding neighborhoods have mobilized to try to protect and preserve the facility as a stable and valuable community activity center. Due to the facilities extensive renovation needs, the YMCA sought a partner to purchase all or a portion of the Lakewood facility and lease back the portion of the facility needed to operate a successful YMCA. Recognizing the significant benefit to the community and the potential to address additional educational needs of Durham residents, the County and the YMCA agree that the County will significantly benefit from its participation in a public-private redevelopment of the Lakewood facility as a local YMCA and a Montessori Middle School.

Pursuant to Session Law 205-172, the County may participate in the development of a public-private project. The proposed development includes the County purchasing the entire YMCA property, which includes several buildings totaling approximately 57,350 sq. ft. on approx. 7.4 acres, and leasing back to the YMCA approx. 18,000 of the facility needed to operate a successful YMCA, and as shown on the map. Both the County and the YMCA will be responsible for making certain investments and improvements to the property. Additionally, the County, pursuant to the existing Interlocal Agreement with DPS, will construct a Montessori Middle School on the site on behalf of DPS. Once completed, the entire site will be conveyed to the Schools subject to the lease to the YMCA.

The proposed Business Deal Points are attached as backup for the Board's consideration. The deal points have been approved by the YMCA of the Triangle and the School Superintendent. The School Board will consider the business deal points at their May 22 meeting. Based on these deal points a development agreement will be drafted and brought back for the Board's approval.

Also attached as supplemental information is a Contract to Purchase the property for \$250,000 with a lease back to the YMCA for a portion of the facility for 15 years. The lease has a present value of \$1,893,003 and is contingent upon the parties successfully negotiating a development agreement and lease to the YMCA. The sale of the property will take place no later than December 31, 2008. A map of the property is attached

which indicates the proposed YMCA building and the remaining buildings to be converted to a middle school.

Resource Person(s): Michael Ruffin, County Manager

County Manager's Recommendation: The County Manager recommends that the Board approve the Business Deal Points related to the acquisition of the Lakewood YMCA property, authorize the Manager to enter into a Contract to Purchase said property in the amount of \$250,000 with a 15 year lease back to the YMCA, and authorize staff to draft the necessary legal documents for Board approval for the lease and renovation of the facility.

14. **Durham County Legislative Agenda**

20 min.

The Board is requested to approve the Durham County Legislative Agenda for 2008. The agenda is the result of two previous meetings with the Board in which various items were discussed, and staff was instructed to finalize in time for the scheduled meeting with the Durham Legislative Delegation on April 30 at 8:00 a.m. in the County Commissioners' Chambers.

The North Carolina General Assembly will convene the Short Session at Noon on May 13 in Raleigh.

According to the adjournment resolution, Budget Bills must be submitted no later than 4:00 p.m. on Friday, May 16 to bill drafting. Local Bills must be submitted to bill drafting by 4:00 p.m. on Wednesday, May 21 and filed in the House or Senate by May 28.

Resource Person(s): Deborah Craig-Ray, Assistant County Manager, and Chuck Kitchen, Durham County Attorney

County Manager's Recommendation: The Manager's recommendation is that the Board approve the legislative agenda and provide copies to the members of the Durham Delegation in advance of the meeting.

15. **Closed Session**

20 min.

The Board is requested to adjourn to Closed Session to discuss matters relating to the location or expansion of a business or industry and to consult with an attorney and to preserve the attorney-client privilege pursuant to G.S. § 143-318.11(a)(3) & (4).

2 hrs. 20 min.